IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

CRP.No. 1460 of 1999(A)

TLB.9/1995 of TALUK LAND BOARD, BADAGARA
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REVN. PETITIONER: RESPONDENT

STATE OF KERALA.

BY GOVERNMENT PLEADER SMT.R.BINDU

RESPONDENTS:

***1 KOOMULLADAN KHUHAMMAD HAJI, VAYAKAMBATH KORANGOTTU MANNUR, MARUTHONKARA. (DIED)**

2. SMT.KUNHAYSHA, W/O. KOOMULLADAN KHUHAMMAD HAJI, VAYAKAMBATH KORANGOTTU MANNUR, MARUTHONKARA.

ADDL.R3 TO R7 ARE IMPLEADED.

3. IBRAYI, S/O.KUNHAMMAD HAJI, VAYAKAMBATH, KORANGOTTU, MANNUR , MARUTHONKARA.

4. MOIDU, S/O.KUNHAMMA HAJI, VAYAKAMBATH, KORANGOTTU MANNUR, MARUTHONKARA.

5. SULAIKHA, D/O. KUNHAMMAD HAJI, VAYAKAMBATH, KORANGOTTU MANNUR, MARUTHONKARA.

6. NABEESA, D/O. KUNHAMMAD HAJI, VAYAKAMBATH, KORANGOTTU MANNUR, MARUTHONKARA.

**7. RAMLA, D/O. KUNHAMMAD HAJI,
VAYAKAMBATH, KORANGOTTU MANNUR, MARUTHONKARA.**

ADDL.R3 TO R7 ARE IMPLEADED AS THE LEGAL HEIRS OF THE DECEASED FIRST RESPONDENT VIDE ORDER DT. 16.8.06 IN CMP.4636/2002.

BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR – R2 TO R7.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

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C.R.P.No.1460 OF 1999

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Dated this the 19th day of July, 2007

O R D E R

This revision petition is preferred against the order of the Taluk Land Board, Vadakara in TLB(B)9/95. The Taluk Land Board(for short 'the Board') by a considered order found that the declarant is only in possession of 13.49 acres equivalent to 8.10 standard acres after the exemption and therefore does not hold land above the ceiling area and therefore dropped the proceedings. It is against that decision the present civil revision petition is filed.

2. Heard. The grievance of the Government is to the effect that the order of the Board is a non-speaking order and it went wrong in exempting an extent of 22.45 acres of land and also it erred in calculating the coconut garden as a single crop wet land. I have perused the records. The declarant, viz., Kunhammed Haji and his family consists of his wife, himself and 5 children. Under Section 82(1)(c) when the family consisting of more than five members, they can hold ten standard acres increased by one standard acre for each member in excess of five, so however that the ceiling area

shall not be less than twelve and more than twenty acres in extent. Learned Government Pleader pointed out that the Board has erred in excluding 3.44 acres in Sy.No.12/1 on the ground that there is no sufficient documentary evidence to prove the tenancy.

3. I have perused the report of the authorised officer and he found that for properties comprised in Sy.No.7/5, Document No.1881/57 is available. For Sy.No.12/5 counter foil and rent receipt are available. For Sy.No.24/4A2 Document No.188/57 is available. For Sy.No.17/1, Document No.2427/44, SRO, Kuttiady is available. For Sy.No.12/1, rent receipt No.16 dated 28.5.1959 and counter foil are available. For the property relating to Sy.No.17/5, it refers to a marupattom document No.569/29. The Spl.Deputy Tahsildar, on local inspection and after the perusal of the documentary evidence, which is also produced along with the case records, found that those lands are tenanted and therefore excluded it from the purview of the fixation of the ceiling area. The Board has not written a non-speaking order. But the Board has referred to the report mentioned in the document in the index column and thereafter proceeded with the matter. I find the Land Board has considered each and every aspect. Even if the disputed land of 3.44 acres in Sy.No.12/1 and the wrong conversion of coconut garden as a single crop wet land is taken into

account, it can be seen from the records available that the declarant is only having possession of 8.10 standard acres equivalent to 16.53 acres of which, 3.04 acres are to be exempted. Or in other words, the land in possession is only 13.49 acres equivalent to 8.10 acres.

4. As stated by me in the opening paragraph of the order, the family is entitled to retain 12.00 standard acres of land and so even if the entire matter is taken into consideration, it can be seen that it can go up to the extent of 20 acres of land.

5. Therefore I find that the Taluk Land Board was right and justified in holding that the declarant and his family do not possess any land in excess of the ceiling area. There is nothing to interfere with the order and therefore the order of the Taluk Land Board stands confirmed and the C.R.P. is dismissed.

M.N.KRISHNAN, JUDGE

Cdp/-